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December 30, 2020

BY ECF

Hon. Jesse M. Furman, U.S.D.J.
United States District Court for
the Southern District of New York
40 Centre Street
New York, New York 10007

Re: *Moshik Nadav Typography LLC v. Banana Republic, LLC*,
No. 1:20-cv-08325-JMF (S.D.N.Y.) (BRAP 1809848)

Dear Judge Furman:

We are counsel to defendant Banana Republic, LLC (“Defendant”) in the above-referenced action and write in response to Plaintiff Moshik Nadav Typography LLC’s (“Plaintiff”) letter motion of today seeking a thirty (30) day extension of time to oppose Defendant’s motion to dismiss.

We wish to call the Court’s attention to page 2 of Plaintiff’s letter, which states that it was made on the deadline instead of 48 hours prior thereto (as required by Your Honor’s individual practices) because “Defendant’s counsel did not respond to the undersigned’s meet-and-confer attempt until 8:00 a.m. on Wednesday, December 30, 2020.” Plaintiff’s letter does not disclose, however, that Plaintiff first sought Defendant’s consent for an extension on 7:15 a.m. on December 30, 2020. Nor does it reveal that Defendant responded to Plaintiff’s request within 90 minutes despite the early time of day, the time difference (Defendant is based in California) and the closure of Defendant’s offices for the holidays. (The parties’ email exchange demonstrating this is attached.) In other words, the tardiness of Plaintiff’s extension request is due to Plaintiff’s inaction, not Defendants’ delay in responding.

As for the substance of Plaintiff’s extension request, while Defendant is sympathetic to health and office closure issues, most law firms in New York (including the undersigned’s firm) have been operating almost entirely on a remote basis since March 2020; this fact alone does not justify a month-long extension. Nor does Plaintiff explain why a two-week extension (which Defendant agreed to) is not sufficient or why an additional month is needed to respond to a motion to which Plaintiff has already had three weeks to oppose.

Hon. Jesse M. Furman, U.S.D.J.

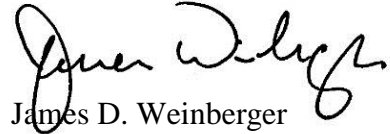
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Accordingly, to the extent the Court grants Plaintiff any extension, Defendant submits that fourteen (14) days should be more than sufficient under the circumstances.

We appreciate the Court's attention to this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James D. Weinberger", is written over the typed name.

James D. Weinberger

cc: Counsel of record (by ECF)

James Weinberger

From: James Weinberger
Sent: Wednesday, December 30, 2020 8:39 AM
To: 'Joshua Levin-Epstein'
Cc: Daniel Nuzzaci
Subject: RE: Moshik Nadav Typography LLC v. Banana Republic, LLC

Sensitivity: Personal

Flag Status: Completed

I was able to reach someone. My client will consent to a 14 day extension. The motion has already been outstanding for 21 days so an additional 30 is beyond what we are willing to provide.

James D. Weinberger | jweinberger@fzlz.com
Fross Zelnick | 212.813.5952

From: Joshua Levin-Epstein [mailto:Joshua@levinepstein.com]
Sent: Wednesday, December 30, 2020 8:01 AM
To: James Weinberger
Subject: RE: Moshik Nadav Typography LLC v. Banana Republic, LLC

Understood.

Joshua D. Levin-Epstein, Esq.
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From: James Weinberger <jweinberger@fzlz.com>
Sent: Wednesday, December 30, 2020 7:20 AM
To: Joshua Levin-Epstein <Joshua@levinepstein.com>
Subject: RE: Moshik Nadav Typography LLC v. Banana Republic, LLC

Josh, I need to check with my client and Banana Republic's offices are closed this week. So I will send a note now but I'm not sure if I will hear back today...James

James D. Weinberger | jweinberger@fzlz.com

Fross Zelnick | 212.813.5952

From: Joshua Levin-Epstein [<mailto:Joshua@levinepstein.com>]
Sent: Wednesday, December 30, 2020 7:16 AM
To: James Weinberger
Subject: Moshik Nadav Typography LLC v. Banana Republic, LLC
Importance: High

James,

I am writing to request a 30-day extension to respond to the Motion to Dismiss.

The basis of the extension is that my colleague had been out with a serious health issue as a result of COVID-19. Additionally, I will be out of the office on vacation, so additional time is needed..

I note that we previously granted you an extension. Thank you, in advance,

Regards,

Josh

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